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5                   UNITED STATES DISTRICT COURT  
6                   WESTERN DISTRICT OF WASHINGTON  
7                   AT TACOMA

8 RONALD AND DEBORAH KEAL,  
9                   Plaintiffs,  
10                  v.  
11                  STATE OF WASHINGTON, *et al.*,  
12                  Defendants.

13                   Case No. C05-5737RJB

14                   ORDER ADOPTING THE REPORT  
15                   AND RECOMMENDATION AND  
16                   GRANTING IN PART AND  
17                   DENYING IN PART DEFENDANT  
18                   MALLOQUE'S MOTION FOR  
19                   JUDGMENT OF DISMISSAL ON  
20                   THE PLEADINGS

21                  The court, having reviewed the Report and Recommendation of Magistrate Judge J. Kelley  
22                  Arnold (Dkt. 163-1) and the file herein, does hereby find and **ORDER**:

23                  (1) The court adopts the Report and Recommendation (Dkt. 163-1).

24                  (2) Defendant Malloque's Motion for Judgment of Dismissal on the Pleadings (Dkt. 139)  
25                   is **GRANTED IN PART** and **DENIED IN PART** as follows:

26                  (3) Plaintiff Deborah Keal has failed to state a cause of action against defendant  
27                   Malloque. The motion is therefore **GRANTED** as to Ms. Keal, and her claims against  
28                   defendant Malloque are **DISMISSED**.

29                  (4) Plaintiff Ronald Keal has sufficiently alleged exhaustion of administrative remedies  
30                   and personal participation by defendant Malloque to withstand the motion for  
31                   judgment on the pleadings. The motion is therefore **DENIED** as to Mr. Keal.

32                  (5) The Clerk is directed to send copies of this Order to plaintiffs, counsel for any  
33                   defendants who have appeared, and to the Hon. J. Kelley Arnold.

34                  DATED this 26<sup>th</sup> day of September, 2006.

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37                   Robert J. Bryan  
38                   United States District Judge